

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

DENNIS MONTGOMERY,

Plaintiff,

v.

JAMES RISEN, ET. AL.

Defendant.

No. 15-cv-1922

[Pending in the Southern District of  
Florida, Case 15-20782-CIV]

**PLAINTIFF'S OPPOSITION TO  
DEFENDANTS' MOTION TO STRIKE**

1 Dennis Montgomery, Plaintiff in the action *Montgomery v. Risen*, No. 15-cv-20782-JEM  
 2 (S.D. Fla. filed Feb. 24, 2015) (the "Underlying Action"), hereby files this opposition to  
 3 Defendants James Risen, Houghton Mifflin Harcourt Publishing Company ("HMH"), and  
 4 Houghton Mifflin Harcourt Company ("HMHC")'s Motion To Strike (the "Motion to  
 5 Strike")(Docket No. 8). The Motion to Strike seeks to have the Court strike Plaintiff's  
 6 Supplement to his Response ("Supplement") (Docket No. 6).

8 Defendant wrongly refers to Plaintiff's supplement as a "surreply," and refers to this  
 9 Court's Local Rule 7(g)(1). Local Rule 7(g)(1), provides as follows:

11 (g) Requests to Strike Material Contained in Motion or Briefs; Surreply

12 Requests to strike material contained in or attached to submissions of opposing  
 13 parties shall not be presented in a separate motion to strike, but shall instead be  
 14 included in the responsive brief, and will be considered with the underlying  
 15 motion. The single exception to this rule is for requests to strike material  
 16 contained in or attached to a reply brief, in which case the opposing party may file  
 17 a surreply requesting that the court strike the material, subject to the following:  
 18 (1) That party must file a notice of intent to file a surreply as soon after receiving  
 the reply brief as practicable. (2) The surreply must be filed within five days of  
 the filing of the reply brief, and shall be strictly limited to addressing the request  
 to strike. Extraneous argument or a surreply filed for any other reason will not be  
 considered.

19 Thus, according to Local Rule 7(g)(1), a "surreply" is used primarily to move to strike  
 20 material contained within a motion or brief. That however, is not what Plaintiff filed, nor was  
 21 Plaintiff asking the Court to strike Defendants' reply. Plaintiff filed a supplement to his  
 22 response, simply to provide additional authority for his response. This was done in order to aid  
 23 the Court in making a determination as to whether Defendants' Motion to Compel was timely  
 24 filed.

26 Defendants mislead the Court by not providing adverse case authority which stated that a  
 27 motion to Compel must be filed before the close of a discovery deadline. Plaintiff simply  
 28

1 provided additional authority which corrected the misleading motion filed by Defendants.  
2 Defendants cannot provide any law supporting their own position and instead have moved  
3 disingenuously to strike Plaintiff's Supplement as a means of ignoring the law.  
4

5 As such, Local Rule LCR 7(g)(l) does not apply to Plaintiff's Supplement, and this Court  
6 should respectfully deny Defendants' Motion to Compel, as well as this Motion to Strike.  
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8 Dated: December 29, 2015  
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10 Respectfully Submitted,

11 /s/ Dennis Montgomery

12 675 NW 85th Ct. #103,  
13 Miami, Florida 33126

14 Pro Se  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 29th day of December, 2015, a true and correct copy of the foregoing was served via CM/ECF or U.S. Mail upon the following:

Via CM/ECF:

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/s/ Dennis Montgomery  
Dennis Montgomery